IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

-

WRIT PETITION NO : 12214 of 2004

Between:

Ex.No.145796367-Y Naik Driver[MT]

Suresh Chand, s/o Sri Amar Singh
R/o Village. Nangla Mau, P.O.SEHI, District: Mathura[UP]

..... PETITIONER

AND

1 The Union of India Through: The Ministry of Defence,

Government of India, New Delhi-110 001
2 The Chief of Army Staff, Army Headquarters,

DHQ PO, New Delhi -110 011
3 The General Officer Commanding in chief

Headquarters, Southern Command, Pune(Mah)
4 The General Officer Commanding

Headquarters, ATN KK & Gaa Area, Chennai [TN]
5 The Commandant 1 EME Centre, Secunderabad [AP]
6 The Commanding officer , 4 Training Battalion 1 EME Cetnre,

Secunderabad [AP]

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a direction, order or a writ, more particularly one in the nature of Writ of Mandamus directing/declaring the action of the respondents herein "Declare the impugned action of the 6th Respondent herein of imposing the sentence of 'REDUCE TO RANKS' by holding trial constituting himself as the Summary Court Martial on 15/03/2003 which consequentially resulted in the premature discharge of the petitioner herein from service as being violative of petitioner's fundamental Rights guaranteed under Articles 14,16 and 21 of the Constitution of India and therefore Ultra Vires".

Counsel for the Petitioner:MR.CAPT.K.M.SAXENA

Counsel for the Respondents: MR.A.SANJEEVA KUMAR

The Court at the stage of admission made the following ORDER:

The present writ petition is filed questioning the punishment imposed by the sixth respondent in reducing the ranks by an order dated 15-03-2003. In respect of the said punishment, the petitioner stated to have filed an appeal before the fourth respondent and it is said to be pending.

Mr. Capt. K.M.Saxena, learned counsel appearing for the petitioner contended that the fourth respondent has to pass appropriate orders within 60 days from the date of receipt of the appeal filed by the petitioner but so far, no orders have been passed.

Mr. A.Sanjeeva Kumar, learned counsel appearing for the respondents stated that the appeal has not been filed within time by the petitioner and to create cause of action, the present writ petition is filed.

The question as to whether the appeal is filed by the petitioner in time or not, has to be considered by the fourth respondent. However, the petitioner cannot be permitted to prosecute two parallel proceedings in respect of the same punishment. Hence, a direction can be given to the fourth respondent to dispose of the appeal filed by the petitioner as per law within a period of eight weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. In the circumstances, no costs.

16th JULY, 2004.

Note: furnish c.c. in two days.

B/o

kvni

To

1 The Ministry of Defence,

Government of India, New Delhi-110 001
2 The Chief of Army Staff, Army Headquarters,

DHQ PO, New Delhi -110 011
3 The General Officer Commanding in chief

Headquarters, Southern Command, Pune(Mah)
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7 Two CD copies.